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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,437	12/14/2003	DAVID LIANG MABBUTT	DMABB05F	1436
33310	7590	05/02/2007		
EDWIN A. SKOCH II			EXAMINER	
67 WALL STREET, 22ND FLOOR			BAXTER, GWENDOLYN WRENN	
PMB#0029				
NEW YORK, NY 10005-3198			ART UNIT	PAPER NUMBER
			3632	
			MAIL DATE	DELIVERY MODE
			05/02/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/707,437	<b>Applicant(s)</b> MABBUTT, DAVID LIANG	
	<b>Examiner</b> Gwendolyn Baxter	<b>Art Unit</b> 3632	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 December 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                 | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

This is the third office action for serial number 10/707,437, Improved Mouse pad filed December 14, 2004.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 8, 10, 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,125,032 to Gillespie in view of U.S. Patent No. 6,644,605 B1 to Tyner. The present invention reads on Gillespie as follows: Gillespie teaches a mouse pad (28) comprising a mouse pad (28) with one or more connectedly attached members (34, 10) at or near the edge of the mouse pad. The member or members protrude above the surface of the mouse pad in a roughly perpendicular fashion and provide a barrier to discourage mouse movement off that edge of the mouse pad where the member or member is located. See figures 3 and 4. Although a tropical theme is shown, sport themes with artistic indicia relating to baseball or football are encouraged as well (col. 2, lines 64 through col. 3, line 1). Gillespie clearly teaches the anchoring of the member or members to the mouse pad (28) via the pegs (34); however, fails to teach the member or members being anchored in the mouse pad.

Tyner teaches a mouse-supporting surface (20). The supporting surface includes apertures (39) for receiving one or more members (220) via post or pegs (222) anchored in and protruding above the surface of the mouse pad in a roughly perpendicular fashion. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the members and mouse pad as taught by Gillespie to have incorporated the pegs on the bottom of the member or member while the mouse pad provided with the openings for receiving the pegs therein as taught by Tyner, as an alternate means of securing the member or members to the supporting surface, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art as a obvious expedient.

Regarding claims 2 and 4, Gillespie encourages the changing of themes such as a tropical or sport theme with artistic indicia relating thereto (col. 2, lines 64+). However, Gillespie fails to teach a shape of a hockey goal or basketball post, backboard, and hoop and appearance of a hockey rink or basketball court. It would have been an obvious matter of design choice to shape the mouse pad as a full or partial hockey rink or basket ball court or to make the member or members in the shape of a hockey goal or basketball post, backboard and hoop, since such a modification would have involved a mere change in the shape of components. A change in shape is generally recognized as being within the level of ordinary skill in the art, since the configuration of the claimed mouse pad or member is not significant. Additionally, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the mouse pad and member or members to have the

appearance of hockey goal and partial rink or a basketball post and partial court, since it has been held to be within the general skill of a worker in the art to select a change in aesthetic design as a matter of obvious design choice.

Claims 3, 5, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gillespie in view of Tyner, as applied to claims 1, 2, 4, 8, 10, 11 and 14, and in further view of U.S. Patent No 5,952,070 to Depiero. Gillespie in view of Tyner teaches a mouse pad but does not discuss the use of graphics or text used for promotional purposes on the mouse pad. Depiero teaches a mouse pad utilizing graphics and indicia for informational purposes. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the mouse pad as taught by Gillespie in view of Tyner to have incorporated the graphics or text on the mouse pad as taught by Depiero for the purpose of displaying information.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gillespie in view of Tyner, as applied to claims 1, 2, 4, 8, 10, 11 and 14, and in further view of U.S. Patent No. 5,876,010 to Murphy. Gillespie in view of Tyner teaches the limitations of the base claim, excluding surface that can be written on. Murphy teaches a mouse pad having a write able surface. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the mouse pad as taught by Gillespie in view of Tyner to have incorporated the writing surface as taught by Murphy for the purpose of providing a mouse pad having a surface that permits writing there on by the user.

Claims 1, 6, 7, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by non-patent literature, Information Fairway Mouse Pad, herein after Info Mouse Pad in view of Tyner. The present invention reads on Info Mouse Pad as follows: Info Mouse Pad teaches a mouse pad comprising a mouse pad with one or more connectedly attached members (the flag) at or near the edge of the mouse pad. The member or members protrude above the surface of the mouse pad in a roughly perpendicular fashion and provide a barrier to discourage mouse movement off that edge of the mouse pad where the member or member is located. The member or members are in the shape of a golf hole, post and flag. The mouse pad has the appearance of a full or partial golf green. The flag provides the area necessary for displaying graphics or text used for promotion purposes. However, this non-patent literature fails to teach the member or members being anchored in the mouse pad

Tyner teaches a mouse-supporting surface (20). The supporting surface includes apertures (39) for receiving one or more members (220) via post or pegs (222) anchored in and protruding above the surface of the mouse pad in a roughly perpendicular fashion. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the members and mouse pad as taught by Gillespie to have incorporated the pegs on the bottom of the member or member while the mouse pad provided with the openings for receiving the pegs therein as taught by Tyner for the purpose securing the member or members to the supporting surface.

***Response to Arguments***

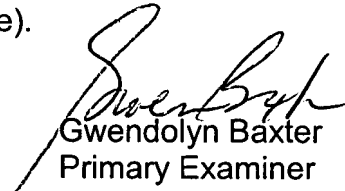
Applicant's arguments with respect to claims 1-14 have been considered but are moot in view of the new grounds of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is 703-308-0702. The examiner can normally be reached on Monday-Wednesday, 8:00am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-6824. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Gwendolyn Baxter  
Primary Examiner  
Art Unit 3632

April 30, 2007